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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 003182

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SUBJECT: SURGE-RELATED DETENTIONS STRAIN IRAQI JUDICIAL
SYSTEM

Classified By: Deputy Chief of Mission Patricia A. Butenis
for reasons 1.4(b) and (d).

11. (C) Summary: The detainee population at the GOI's Rusafa Detention Facility (RDF) is growing at a steady pace due to security operations and detainee transfers from other facilities. With very few cases reaching the trial stage, the population is approaching maximum capacity. The conditions at RDF are far better than in other, less savory GOI facilities and the presence of U.S. advisors and trainers ensures humane treatment. However, the lack of action in the Iraqi judicial process has resulted in many detainees languishing in pre-trial detention longer than the maximum sentence for their alleged crime would have been, and further inaction by the GOI will fill the facility to less manageable proportions. End summary.

12. (SBU) The Rusafa Detention Facility (RDF), the MOJ and Iraqi Correctional System's (ICS) component of the Rusafa Rule of Law Complex, has become the central pre-trial processing facility for the ICS. The RDF operates in conjunction with the nearby Baladiyat detention pre-trial facility. USG staff on-site is composed of 43 advisors affiliated with the Department of Justice's International Criminal Investigation Training and Assistance Program (ICITAP).

13. (SBU) The permanent facilities at RDF have a normal operating bed-space capacity of 2,358. During periods when the numbers of detainees grow, the "hard facilities" in a surge status can accommodate 2,678 detainees. These permanent facilities include six housing units which are designed to be a medium-security facility.

14. (SBU) In anticipation of the increase in RDF's population resulting from surge operations and detainee transfers from other GOI facilities, temporary detention compounds have been built, comprised of large common cells within tents. These tents are erected on concrete pads with toilet and shower facilities. (Note: U.S. advisors at RDF related that detainees actually prefer to be in the climate-controlled tent compounds, which are fueled at GOI expense, rather than in the hard structures.) Currently, there are six temporary detention compounds which can temporarily house 4,500 detainees.

15. (C) Between the permanent and temporary facilities at RDF, the maximum detainee population size should be 7,178. RDF cells currently hold nearly 6,000 pre-trial detainees and more than 425 convicted prisoners serving their sentences. If the detainee population continues to grow at the present rate, ICITAP advisors estimate that RDF will reach its maximum surge capacity by early October.

16. (C) This looming problem has made the issue of processing

pre-trial detainees as quickly as possible a high priority for both the Embassy and MNF-I. While other problems exist at RDF -- including possible militia infiltration of RDF staff and inadequate medical support -- the biggest problem seems to be the GOI's lack of urgency in ensuring investigative files are either established for the detainees who have been at RDF for several years or in the case of recent transfers, that the original detaining office forwards the case file to RDF.

¶7. (C) Various U.S. officials -- ranging from EmbOffs to ICITAP advisors to Coalition Force representatives -- have been told of many cases where pre-trial detainees have been languishing in detention far longer than the maximum sentence for the offenses they were charged with. EmbOffs have repeatedly approached judicial officials at the LAOTF, the Central Criminal Court of Iraq, and the Higher Juridical Council to argue for an expedited process to deal with this growing backlog of pre-trial detainees. GOI officials have assured us that they are working on the problem but seemingly minor issues are holding up any action to date. (Note: In the cases of RDF detainees for whom a detention order and specific charges exist, it should be an administrative process to determine if the detainee has been held beyond any potential sentence the charge might have. If so, the trial judge could order release for time served. It appears that the Iraqi judicial system does not provide for such an approach. Instead they insist that an investigative file be produced for the detainee, that a judicial investigator look into the case before handing the file over to an investigative judge to determine whether to order the detainee's release, issue an order for the detainee's case to go to trial, or to commit the detainee to continued detention, pending further investigation. Only then will the Iraqi trial judge agree to hear the case. End note.)

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¶8. (C) U.S. efforts to assist the GOI in processing the thousands of pre-trial detainees at RDF include offers to provide security for officials involved in locating investigative files and transporting them to the RDF, to facilitate training for additional judicial investigators and investigative judges, and to assist the GOI in establishing a "judicial surge" to hear RDF cases. While GOI contacts agree that the situation at RDF is growing critical, there has been little action on the part of Iraqi judicial officials.

¶9. (C) Comment: The situation at RDF cannot be compared to the deplorable conditions and brutal treatment common to ISF facilities. However, the U.S. is closely associated with RDF through various cooperative projects between Coalition forces and USG elements and the Rusafa complex. The detainee population at RDF will likely reach maximum capacity levels soon. The injustice of prolonged detention with little or no hope of due process, and any resulting violence or action by the detainees, may very well be identified as being the byproduct of U.S. actions. End comment.
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